

Hon. John H. Chun

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

KURT A. BENSHOOF, et al.,

Plaintiffs,

v.

MARSHALL FERGUSON, J. DOE, BLAIR
RUSS, JESSICA SKELTON, MICHAEL
TRACY, SARAH TURNER, JAMAL
WHITEHEAD,

Defendants.

No. 2:24-cv-00808-JHC

DEFENDANT MARSHALL
FERGUSON'S MOTION TO SEAL

NOTED ON MOTION CALENDAR:
December 10, 2024

I. INTRODUCTION AND RELIEF REQUESTED

Defendant Marshall Ferguson ("Defendant") files this motion to seal pursuant to Federal Rule of Civil Procedure 5.2(d) and Local Civil Rule 5(g), and respectfully asks the Court to seal the summons containing his home address filed under Dkt. Nos. 6-1 and 8. Defendant is a judge at the King County Superior Court, and as a public figure and a judicial officer, his privacy and personal security interests in keeping his home address confidential outweigh the public's interest in access to the summons.

II. FACTUAL BACKGROUND

This case is one of many that Plaintiff Kurt Benshoof has filed against various defendants – including public officials, judges, and opposing counsels from previous cases – arising out of lawsuits

1 and court decisions that have been entered in the context of a state child custody matter between Mr.
 2 Benshoof and the mother of his child. Mr. Benshoof filed this action on June 7, 2024, naming King
 3 County Superior Court Judge Marshall Ferguson in his personal capacity as one of the defendants.
 4 Dkt. No. 1. Even though Plaintiffs made a point of suing the Defendant in his personal capacity, they
 5 nevertheless sued the Defendant in connection with his role and actions taken as a trial judge in the
 6 King County Superior Court. In the proposed and issued summonses, Benshoof listed the home
 7 address of Judge Ferguson. Dkt Nos. 6-1 and 8.

8 III. LEGAL STANDARD

9 Federal Rule of Civil Procedure 5.2 governs the “Privacy Protection for Materials Filed
 10 with the Court” and requires the redaction of certain personally identifying information from
 11 electronic filings; subsection (e) of Rule 5.2. allows for the redaction of information “for good
 12 cause shown.” Fed. R. Civ. P. 5.2(e).

13 A motion to seal a document must include: (A) a certification that the party has met and
 14 conferred with all other parties.....to explore redaction and other alternatives to filing under seal;
 15 (B) an explanation of: (i) the legitimate private or public interest that warrant the relief sought; (ii)
 16 the injury that will result if the relief sought is not granted; and (iii) why a less restrictive alternative
 17 to the relief sought is not sufficient. LCR 5(g)(3)(A)-(B).

18 Although there is a strong presumption of public access to the court’s files, “access to judicial
 19 records is not absolute.” LCR 5(g); *Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1178 (9th
 20 Cir. 2006). The strong presumption in favor of access to court records can be overridden given
 21 sufficiently compelling reasons for doing so. *See Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d
 22 1122, 1135 (9th Cir. 2003). The court must conscientiously balance the competing interests of the
 23 public and the party who seeks to keep certain judicial records secret. *Kamakana*, 447 F.3d at 1179.

1 “In general, ‘compelling reasons’ sufficient to outweigh the public’s interest in disclosure and
 2 justify sealing court records exist when such court files might have become a vehicle for improper
 3 purposes, such as the use of records to gratify private spite, promote public scandal, circulate libelous
 4 statements, or release trade secrets.” *Id.* at 1179.

5 IV. ARGUMENT

6 Defendant respectfully requests that the Court waive the requirement to meet and confer with
 7 Mr. Benshoof due to impracticability given that Mr. Benshoof has been in custody at the King County
 8 Correctional Facility since July 3, 2024.

9 There is a significant security and privacy interest for judicial officers to keep their home
 10 addresses confidential. As a judge, Defendant has an obvious and critical need to maintain privacy
 11 because of the potential threat to judicial safety and security. Physical injury and harm can result from
 12 the threat posed by dissatisfied litigants or others. On the other hand, there is little to no discernable
 13 public interest in publishing a judge’s home address on the court’s docket, particularly when the home
 14 address of the judge at issue in no way relates to the merit of the case.

15 Although the least restrictive alternative in this case is to redact the Defendant’s home address
 16 from the summons, summons is generally presented by the plaintiff. As Mr. Benshoof is currently in-
 17 custody, he is likely unable to file a redacted summons. If the Court is unwilling to seal the summons,
 18 Defendant requests that the Court order Dkt No.s 6-1 and 8 be sealed, and allow the Defendant to re-
 19 file the summons with the judge’s home address redacted.

20 V. CONCLUSION

21 Defendant’s privacy and security interests in keeping his home address confidential outweigh
 22 the public’s interest in access to the summons, particularly when the summons does not relate to the
 23

1 merit of the case. Defendant has met the compelling reason standard to seal the court record and
2 respectfully request this Court to grant this motion to seal.

3 I certify that this memorandum contains 777 words, in compliance with Local Civil Rules.

4
5 DATED this 15th day of November 2024.

6 LEESA MANION (she/her)
King County Prosecuting Attorney

7 By: s/ Peggy Wu
8 PEGGY WU, WSBA #35941
9 Senior Deputy Prosecuting Attorney
King County Prosecuting Attorney's Office,
10 Civil Division
701 5th Avenue, Suite 600
Seattle, WA 98104
11 pwu@kingcounty.gov
Attorney for Marshall Ferguson

CERTIFICATE OF FILING AND SERVICE

I hereby certify that on November 15, 2024, I electronically filed Defendant Marshall Ferguson's Motion to Seal with the Clerk of the Court using the electronic filing system and sent the same through the e-service application to the following:

Kurt A. Benshoof
1716 N 128TH ST
SEATTLE, WA 98133
206-460-4202
Email: kurtbenshoof@gmail.com
Pro Se

I also hereby certify that on November 15, 2024, I sent the same via US Postal Service to the following:

Kurt Benshoof
B/A 2024-008067
King County Correctional Facility
500 Fifth Avenue
Seattle, WA 98104

Howard Brown
1003 W. Michigan St.
Hammond, LA 70401

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 15th day of November 2024.

By: s/ Katie Wilson
KATIE WILSON
Paralegal, Civil Division
King County Prosecuting Attorney's Office